

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA

v.

KILMAR ARMANDO ABREGO GARCIA,

Defendant.

No. 3:25-cr-115

Judge Waverly D. Crenshaw, Jr.

**MOTION TO ENSURE COMPLIANCE WITH LOCAL CRIMINAL
RULE 2.01**

In light of recent inflammatory statements made by Department of Homeland Security (“DHS”) Secretary Kristi Noem, Mr. Abrego respectfully requests that the Court (1) clarify that the requirements of Local Criminal Rule 2.01 apply to DHS, and (2) order the government to notify all officials at DHS that are involved in the investigation of Mr. Abrego, and all officials in their supervisory chain, of the requirement to comply with this Court’s rules regarding extrajudicial statements, in order to ensure that Mr. Abrego can be afforded a fair trial in this district.

On July 18, 2025—just two days after this Court held an evidentiary hearing on the government’s motion for revocation—DHS Secretary Kristi Noem held a press conference at the local Homeland Security field office in Nashville. She was flanked by DHS personnel, including an agent who appears to be the Special Agent in Charge of the Nashville Field Office, and focused her remarks to local press on the purported “‘worst of the worst’ criminal illegal aliens arrested by the Department . . . in the Volunteer State.”¹ During that press conference, Secretary Noem made the following remarks about Mr. Abrego:

I am grateful that this man is being brought to justice. He has a lifetime history of trafficking individuals and of taking advantage of minors, soliciting pornography from them, nude photos of them, abusing his wife, abusing other illegals, aliens that were in this country, women that were under his care while he was trafficking them. He’s a horrible human being and a monster, and he should never be released free. . . . I hope this judge does the right thing and brings this man to justice for the crimes that he has committed. The evidence is overwhelming. This judge needs to make sure that he applies the law equally to every single person that shows up in his courtroom.²

¹ Dep’t of Homeland Sec., *Secretary Noem to Host Press Conference Exposing “Worst of the Worst” Criminal Illegal Aliens in TN*, YouTube (July 18, 2025), <https://www.youtube.com/watch?v=6J0-YouvMGo>.

The video of this press conference was also posted to DHS’s live webpage. See Homeland Security LIVE, <https://www.dhs.gov/live> (last visited July 20, 2025).

² *Secretary Noem to Host Press Conference Exposing “Worst of the Worst” Criminal Illegal Aliens in TN*, *supra* n.1, at 14:26-14:50. Later in the conference, Secretary Noem said that Mr. Abrego was “consistently being surrounded and working with [MS-13] gang members to traffic individuals across the state for many, many years, and working in conjunction with them and targeting individuals of rival gangs against MS-13, and even helping

These comments—made by a sitting cabinet secretary (and one of the Nation’s highest ranking law enforcement officials) in this District, mere miles from the courthouse where Mr. Abrego’s case is pending—are precisely of the type that are most likely to prejudice Mr. Abrego’s right to a fair trial. Secretary Noem assailed Mr. Abrego’s character and reputation, including with verbal insults and allegations that are irrelevant to the offenses charged in the indictment and almost certainly inadmissible at trial. *See* M.D. Tenn. L. Crim. R. 2.01(a)(2)(B)(i), (viii). She also presumed that Mr. Abrego is guilty, without regard to the judicial process or the presumption of innocence, and repeated the government’s refrain that Mr. Abrego should “never be released free.” *See id.* 2.01(a)(2)(B)(vi), (vii). Especially given that Secretary Noem went out of her way to come to this District and make these remarks to the local press,³ these statements are not just highly likely to taint the jury pool; they appear calculated to maximize the prejudice to Mr. Abrego. In light of the significant potential prejudice, on July 21, the defense requested that the government issue a retraction. *See United States v. Koubriti*, 305 F. Supp. 2d 723, 745 (E.D. Mich. 2003) (government issued a retraction after inflammatory remarks by the Attorney General,

to help facilitate the murder of a mother of one of the rival gangs.” *Id.* at 20:39-20:58. She added: “He is a monster, and he is tied to a terrorist organization that has perpetuated violence against human beings for many, many years.” *Id.* at 21:04-21:12.

³ *See Noem takes aim at Nashville mayor, local university and promises more local immigration crackdowns*, Tennessee Lookout (July 18, 2025), <https://tennesseelookout.com/2025/07/18/noem-takes-aim-at-nashville-mayor-local-university-and-promises-more-local-immigration-crackdowns/>; *Here’s What Was Missing from Kristi Noem’s Nashville Press Conference*, Nashville Banner (July 21, 2025), <https://nashvillebanner.com/2025/07/21/kristi-noem-nashville-ice-deportation-operation/>; *Abrego Garcia arrest cited as key in Trump Administration’s immigration crime crackdown*, Fox17 WZTV Nashville (July 18, 2025), <https://fox17.com/news/local/abrego-garcia-arrest-cited-as-key-in-trump-administrations-immigration-crime-crackdown-national-news-tennessee-news-google-trends-dhs-noem>; *Nashville will see a rise in ICE agents under Trump’s budget plan*, WPLN (July 18, 2025), <https://wpln.org/post/nashville-will-see-a-rise-in-ice-agents-under-trumps-budget-plan/>; *Kristi Noem says Nashville will see more ICE agents deployed*, Nashville Post (July 21, 2025), https://www.nashvillepost.com/politics/federal/kristi-noem-nashville-press-conference/article_1399912f-a447-5502-b42b-9e6d340c542a.html.

and the court, while recognizing the importance of the retraction, concluded that it was insufficient to cure prejudice). The government did not respond to that request.

As the Court is aware, since Mr. Abrego was illegally renditioned to El Salvador, the government has waged a public disparagement campaign against him that has only intensified since he was indicted in this District. *See* ECF 69 at 3-6. On July 2, 2025, Mr. Abrego requested that the Court order that the parties comply with Local Criminal Rule 2.01, which prohibits making “an extrajudicial statement . . . that . . . will be disseminated by public communication, and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter,” M.D. Tenn. L. Crim. R. 2.01(a)(1). *See* ECF 69. The Rule applies to both lawyers and the “government agencies or offices . . . and employees of such . . . government agencies or offices, with which the lawyer is associated.” *Id.* 2.01(a)(4). On July 3, the Court granted Mr. Abrego’s motion. *See* ECF 73.

That same day, to ensure compliance with the Court’s order, defense counsel requested in writing that the government confirm that it would send the order to personnel in their supervisory chains and any government agencies or offices involved in the case, as defined in Local Criminal Rule 2.01(a)(4). On July 9, defense counsel sent a second written request for the same confirmation. The government has not yet responded to either of defense counsel’s queries.

The obligations of Local Criminal Rule 2.01 extend to the “government agencies or offices” with which the government is associated. M.D. Tenn. L. Crim. R. 2.01(a)(4). Here, it is DHS, and the law enforcement agents in its investigative arm, Homeland Security Investigations, that have worked alongside the DOJ as part of Joint Task Force Vulcan to investigate and prosecute this case. ECF 60 at 2-3; *see Sheppard v. Maxwell*, 384 U.S. 333, 359 (1966) (court’s duty to protect proceedings from outside influence encompasses statements by police officers). In

high-profile criminal cases, courts routinely direct government agencies and personnel involved in the investigation to refrain from making extrajudicial statements that are likely to prejudice a defendant's right to a fair trial. *See, e.g., United States v. Combs*, No. 24 Cr. 542 (S.D.N.Y. Oct. 25, 2024), ECF 50 at 2 (directing "the Government, and all local and federal law enforcement agents assigned to this case or the related investigation, assisting with this case or the related investigation, or who have assisted with this case or the related investigation" to comply with analogous local rule); *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. Jan. 13, 2025), ECF 93 at 2 (same); *United States v. Manafort*, No. 17 Cr. 201 (D.D.C. Nov. 8, 2017), ECF 38 at 2 (directing "all interested participants in the matter, including the parties, any potential witnesses, and counsel for the parties and the witnesses" to refrain from making statements likely to prejudice the case).

Accordingly, Mr. Abrego respectfully requests that the Court issue an order clarifying that the obligations under Local Criminal Rule 2.01 apply to DHS and other government agencies and offices with which counsel are associated. In light of the July 18 press conference, Mr. Abrego also requests that this Court order the government to notify all officials at DHS that are involved in the investigation of Mr. Abrego, and all officials in their supervisory chain, of the requirement to comply with this Court's rules regarding extrajudicial statements.

Dated: July 22, 2025
New York, New York

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2025, I electronically filed the foregoing document with the clerk of the court by using the CM/ECF system, which will send a notice of Electronic Filing to the following: Acting United States Attorney, Robert E. McGuire, 719 Church Street, Suite 3300, Nashville, Tennessee 37203.

/s/ Sean Hecker